IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

THURSDAY, THE 7TH DECEMBER 2006 / 16TH AGRAHAYANA 1928

OP.No. 19642 of 2002(L)

PETITIONER:

YAMUNA SREEKUMAR, YAMUNA NIVAS,
MARKET ROAD, KARUNAGAPPALLY.

BY ADV. SRI.V.N.ACHUTHA KURUP
SRI.BINDU SREEKUMAR

RESPONDENTS:

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1. **KERALA STATE ELECTRICITY BOARD,**
   VAIDHUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM

2. **EXECUTIVE ENGINEER, ELECTRICAL MAJOR**
   DIVISION, KERALA STATE ELECTRICITY BOARD,
   KARUNAGAPPALLY.

3. **ASSISTANT EXECUTIVE ENGINEER,**
   ELECTRICAL MAJOR SECTION, KERALA STATE ELECTRICITY
   BOARD, KARUNAGAPPALLY.

BY ADV. SRI.A.SUDHI VASUDEVAN, SC, KSEB

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 07/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.33510/2002 IN OP. NO.19642/2002

DISMISSED

7.12.2006 **SD/- KURIAN JOSEPH, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE MAHAZAR DT.18.4.02 PREPAREE BY SU ENGINEER OF ELECTRICAL MAJOR SECTION, KARUNAGAPPALLY.

EXT.P2:- COPY OF THE LETTER NO.DE/SIS/14530/2002-03/11 DT.22.4.02 OF 3RD RESPONDENT TO THE PETITIONER.

EXT.P3:- COPY OF THE BILL DT.22.4.02 ISSUED TO PETITIONER DEMANDING RS.20520/-

EXT.P4:- COPY OF THE APPEAL DT.25.4.02 OF THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P5:- COPY OF THE PETITION/APPLICATION DT.,16.5.02 OF THE PETITIONER SUBMITTED BEFORE 2ND RESPONDENT.

EXT.P6:- COPY OF THE ORDER NO.GB1/APPEAL/02-03/664 DT.6.7.02 OF THE 2ND RESPONDENT.

EXT.P7:- COPY OF THE LETTER NO.BB.02-03 DT.9.7.02 OF THE 3RD RESPONDENT TO THE PETITION.

/TRUE COPY/

tss

KURIAN JOSEPH, J.

O.P.No.19642 OF 2002

Dated this the 7th day of December, 2006

J U D G M E N T

What should be the penalty in a case where there is unauthorised extension of a service connection is the simple question to be considered in this case. The facts are not in dispute. The petitioner took an unauthorised extension from his service connection to another person. On detection, notice was issued for disconnection. On receipt of notice, the extension was disconnected and what followed is only the penalty proceedings. What is the method for assessment is the disputed question. Learned standing counsel submits that the petitioner in such circumstances should be extended the tariff as applicable to LT VIII temporary extension. I am afraid the law does not permit the respondents to take recourse to such action. That is the situation where the Board permits the consumer to take a temporary extension in certain contingencies. In such situation, despite the fact that the energy is measured in the service connection, fixed charge per day at the notified rate is collected, apart from the application fee, testing fee etc. That is the situation where the

Board on inspection permits an extension. But that is not the situation where the consumer unauthorisedly takes an extension to another premises. The moment such unauthorised extension is noticed, the Board Authorities are expected to forthwith disconnect such unauthorised extension, lest there should be very serious other consequences. Whether penalty in such circumstances as provided under the Regulation 42 (d) of the Conditions of Supply of Electrical Energy is to be applied at LT VIII tariff is the question. What is done in the instant case is to multiply the LT VIII fixed charges per day to sixty days and three times. No provision under the Regulations permits the Board to take such an action. As already observed above, the power is to disconnect the supply and as far as the penalty is concerned the power under Regulation 42(d) is to levy the penalty in terms of the said provision, to the extent of the connected load used for the alleged unauthorised extension. Since levy of proportionate energy charges is impermissible in view of the Bench decision of this court in W.A.No.1231/2003 and connected cases the penalty is to be limited to fixed charges only. In the instant case 3KW is to be multiplied by the monthly fixed charges at the relevant time, and multiplied by six months. The impugned orders are

quashed. There will be a direction to the 3rd respondent to revise the penalty bill already issued to the petitioner. The amount already remitted shall be duly adjusted.

The writ petition is disposed of as above.

(KURIAN JOSEPH, JUDGE)

ps

KURIAN JOSEPH, J.

O.P.No. 19642/2002

JUDGMENT

7th December, 2006